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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,620	02/05/2004	Ronald Richard Rayburn	20714-0027	5081

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EXAMINER
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HARTMAN JR, RONALD D

ART UNIT	PAPER NUMBER
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2121

MAIL DATE	DELIVERY MODE
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09/10/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

44

<b>Office Action Summary</b>	<b>Application No.</b> 10/772,620	<b>Applicant(s)</b> RAYBURN ET AL.	
	<b>Examiner</b> Ronald D. Hartman Jr.	<b>Art Unit</b> 2121	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 12-26 is/are rejected.
- 7) ☒ Claim(s) 10 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date: _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 recites, "for the instant message identifier of the at least one remotely located interface", but claims 2 and 3 recite an identifier for the user and for the router. There is insufficient antecedent basis for an identifier for the remotely located interface.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 7, "wherein the step of packetizing the data" lacks proper antecedent basis.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6-9, 12-13, 16-18, 20-21 and 24-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Stead et al., U.S. Patent No. 2002/0002627.

As per claim 1, Stead et al. teaches a method of remotely monitoring building equipment comprising the steps of: providing at least one item of building equipment (e.g. Figure 2 elements 90) communicably linked to a router (e.g. Figure 2 elements 80), the router being communicably linked to an instant messaging server (e.g. interpreted to correspond to Figure 2 element 30; Also see [0009], [0018] and [0061]); providing at least one remotely located interface (e.g. Figure 2 element 10), the at least one

remotely located interface being communicably linked to the instant messaging server; gathering data from the at least one item of building equipment with the router; and transmitting the data from the router to the at least one remotely located interface in an instant message through the instant messaging server (e.g. [0012]).

As per claims 6-9, packetizing data into data packets and encapsulating a data packet into an instant message by converting the data prior to encapsulation, and un-encapsulating the encapsulated data packet at a remote interface are features inherent to Stead et al. and the use of Internet Protocols for remotely monitoring building equipment via instant messages.

As per claims 12 and 21, Stead et al. further teaches gathering operational status data, operational parameters and historical parameters (e.g. [0012]).

As per claims 13 and 20, Stead et al further teaches the building equipment being heating equipment (e.g. [0012]).

As per claims 16-17 and 24-26, the features claimed are believed to be inherent to the overall functions and or operations of Stead et al.'s disclosed building equipment monitor and control system. That is, gathering data regarding the state of the equipment in response to a user request for that information appears to be anticipated by Stead et al. Furthermore, packetizing and encapsulation, as already explained with reference to pending claims 6-9 (their rejection applied herein), are feature believed to be inherent to Stead et al. and the use of Internet Protocols for remotely monitoring building equipment via instant messages.

As per claim 18, the rejection of claims 1 and 6-9 are applied herein.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-5, 14-15, 19 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stead et al., as applied to claims 1 and 18, from above, in view of Official Notice.

As per claims 2-5 and 19, Official Notice is taken with respect to a feature of assigning a name or number to a router, to a feature of assigning an identifier of a user, and a feature wherein the identifiers are used to check authorization of a user so that only authorized users access the building equipment. The incorporation of these well-known security features would provide for a mechanism by which unauthorized users are prevented from accessing and changing the operations of the building equipment, and this would have been obvious to one of ordinary skill in the art at the time the invention was made.

Claims 14 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stead et al., as applied to claims 13 and 21, from above, in view of Official Notice.

As per claims 14 and 22, Official Notice is taken with respect to a feature wherein a temperature, or thermostat setting, is a parameter that is monitored and controlled remotely via the Internet or other wide area network.

It would have been obvious to include this feature for the purpose of allowing the temperature of a building to be remotely monitored and controlled via the Internet, thereby allowing a user the ability to monitor and change the temperature of the building from practically any location anywhere in the world.

As per claims 15 and 23, Official Notice is taken with respect to polling as it represents a well-known feature of building monitor and control systems. Its incorporation would have been obvious for the purpose of allowing the system, and specific parts thereof, to be monitored at specific times, thereby reducing the need for the building to be monitored continuously.

#### ***Allowable Subject Matter***

Claims 10-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As per claims 10-11, specifically dependent claim 10, the prior art of record fails to disclose a method of remotely monitoring building equipment wherein each item of building equipment is assigned an address to permit electronic identification of the equipment, in combination with the other claimed features. In other words, every piece of equipment in a building is assigned an address that is used to permit electronic identification of each piece of equipment of the building.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald D. Hartman Jr. whose telephone number is (571) 272-3684. The examiner can normally be reached on Mon.-Fri., 11:00 - 8:30 pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on (571) 272-3687. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ronald D Hartman Jr.

Patent Examiner

Art Unit 2121



August 28, 2007

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